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Attorneys for Defendant,
ALLEN TAM

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

*E-FILED - 9/15/06

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALLEN TAM,

Defendant.

Case No. CR 06-0208 RMW

**STIPULATION AND ~~PROPOSED~~
ORDER TO CONTINUE STATUS
CONFERENCE**

[SIGNATURE BY FACSIMILE]

IT IS HEREBY STIPULATED by and between the parties, through their counsel, that the Status Conference, currently scheduled for Monday, September 18, 2006, at 9:00 a.m. before The Honorable Ronald M. Whyte in Courtroom Number 6, be rescheduled until Monday, January 8, 2007, at 9:00 a.m. and that time under the Speedy Trial Act, 18 U.S.C. § 3161, is excluded from September 18, 2006 to January 8, 2007. The reasons for this Stipulation appear below.

1. Defense counsel has been provided with approximately 3,000 pages of documents by the United States Attorney. In addition, defense counsel recently received the image copy of all computer media the U.S. Attorney has in the above matter, including but not limited to, the computer media on a Sony Vaio notebook computer in its possession.

2. The materials provided to defense counsel by the United States Attorney, both in terms of documents and the image copy of all computer media, are voluminous and require further examination by defense counsel to determine their relevance and materiality.

3. The charges against defendant – one count of conspiracy to commit mail fraud and wire fraud (18 U.S.C. § 371), four counts of mail fraud and aiding and abetting (18 U.S.C. §§ 1341 and 2), and five counts of wire fraud and aiding and abetting (18 U.S.C. §§ 1343 and 2) – are complex in nature. It will take time for defense counsel to fully and properly review the material and to have a complete understanding of the issues involved in the case. Continuing the status conference until January 8, 2007, will give defense counsel the opportunity to accomplish this objective.

4. James McManis, the lead attorney for defendant, will be out of the country, and thus unavailable, from September 29, 2006, through November 3, 2006. In addition, the Assistant United States Attorney working on this case, Kyle Waldinger, Esq., has informed defense counsel that he will be preparing for and in a lengthy trial from approximately mid-November through December 31, 2006.

5. The parties are taking steps towards trying to resolve the matter and are scheduled to meet on November 17, 2006, at the office of the United States Attorney to discuss the case.

6. Given the complex issues in the case, the necessity for defense counsel to prepare effectively, the parties' efforts to resolve the case, and the unavailability of counsel on both sides, a continuance of the Status Conference is warranted.

7. Counsel for defendant conferred with AUSA Kyle Waldinger by telephone on September 11, 2006. Mr. Waldinger stated that he did not object to the continuance.

DATED: 9/13/06

McMANIS FAULKNER & MORGAN


NEDA MANSOORIAN

MATTHEW SCHECHTER

Attorneys for Defendant, ALLEN TAM

DATED: _____

UNITED STATES ATTORNEY

KYLE WALDINGER

Attorneys for Plaintiff,

UNITED STATES OF AMERICA

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20 DATED: _____

McMANIS FAULKNER & MORGAN

NEDA MANSOORIAN
MATTHEW SCHECHTER
Attorneys for Defendant, ALLEN TAM

24 DATED: 9/13/2006

UNITED STATES ATTORNEY
Kyle F. Waldinger
KYLE WALDINGER
Attorneys for Plaintiff,
UNITED STATES OF AMERICA

2 STIPULATION AND ~~PROPOSED~~ ORDER TO CONTINUE STATUS CONFERENCE - CASE NO. CR 06-0208 RMW

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ORDER

The Court finds that, taking into account the public interest in the prompt disposition of criminal cases, granting the continuance until January 8, 2007 is necessary for the effective preparation of counsel and continuity of defense counsel and government counsel. *See* 18 U.S.C. § 3161(h)(8)(B)(iv). Given these circumstances, the Court finds that the ends of justice served by excluding the period from September 18, 2006 to January 8, 2007 outweigh the best interest of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A).

Therefore, IT IS SO ORDERED THAT the Status Conference in this matter, currently set for September 18, 2006, at 9:00 a.m., be continued to January 8, 2007, at 9:00 a.m.

IT IS FURTHER ORDERED THAT the period from September 18, 2006 to January 8, 2007, be excluded from Speedy Trial Act calculations under 18 U.S.C. §§ 3161(h)(8)(A) & (B)(iv).

DATED: 9/15/06

/s/ Ronald M. Whyte

HON. RONALD M. WHYTE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA